

Notice of Allowability

Application No.

09/708,352

Applicant(s)

LEONARD ET AL.

Examiner

VANESSA L. FORD

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 11/22/10.
2. ☒ The allowed claim(s) is/are 29-30 and 40-45.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>4/19/02</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____ |

/Vanessa L. Ford/
Primary Examiner, Art Unit 1645

DETAILED ACTION

Allowance After-Board Decision

1. A board decision was rendered in the application on September 22, 2010. The outcome of the board decision is set forth below.

(a) The rejection of claims 1, 3, 52, 53 and 55 under 102(b) as anticipated by John Thayer Boothby, (*Immunologic Responses to Mycoplasma bovis* (1982)(Ph.D. dissertation on filed with University Microfilms International) referred to as Boothby I in board decision the Examiner is affirmed.

(b) The rejection of claims 5, 6, 29, 30, 40-44 and 54 under 102(b) as anticipated by John Thayer Boothby, (*Immunologic Responses to Mycoplasma bovis* (1982)(Ph.D. dissertation on filed with University Microfilms International) referred to as Boothby I in board decision the Examiner is reversed.

(c) The rejection of claims 1, 3-12, 31-39 and 46-56 under 103(a) as obvious over John Thayer Boothby, (*Immunologic Responses to Mycoplasma bovis* (1982)(Ph.D. dissertation on filed with University Microfilms International) referred to as Boothby I in board decision, Poumarat et al (*Veterinary Microbiology*, 40, 1994, 305-321) and Thorns et al (*Res. Vet. Sci.*, 1980, 29(3), 328-332) the Examiner is affirmed.

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(d) The rejection of claims 29, 30 and 40-45 under 103(a) as obvious over John Thayer Boothby, (*Immunologic Responses to Mycoplasma bovis* (1982)(Ph.D. dissertation on filed with University Microfilms International) referred to as Boothby I in board decision, Poumarat et al (*Veterinary Microbiology*, 40, 1994, 305-321) and Thorns et al (*Res. Vet. Sci.*, 1980, 29(3), 328-332) the Examiner is reversed.

2. Applicant filed an After-board decision amendment on November 22, 2010, claims 1-28, 31-39 and 46-56 are canceled. This amendment has been entered. Claims 29, 30 and 40-45 are pending. All rejections over claims 29, 30 and 40-45 have been reversed based on the board decision.

Therefore, claims 29, 30 and 40-45 are allowed.

3. The terminal disclaimer filed on November 22, 2010 is disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S Patent 7,429,389 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Conclusion

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to VANESSA L. FORD whose telephone number is (571)272-0857. The examiner can normally be reached on 9 am- 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nickol can be reached on (571) 272-0835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Vanessa L. Ford/
Primary Examiner, Art Unit 1645
January 6, 2011